

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**CLEMMIE CLEVELAND,
ROBERT SANDIFER, and
PHILLIS SANDIFER**

PLAINTIFFS

V.

CASE NO. 4:05CV10

**COLDWELL BANKER REAL ESTATE
CORP., JIM PRUETT, LINDA PRUETT,
LEFLORE PROPERTIES, FIRST FRANKLIN
FINANCIAL CORPORATION, PRESTIGE
TITLE, INC., BANK OF COMMERCE,
TERRY GREEN, STATE BANK & TRUST CO., and
PROFESSIONAL MORTGAGE CONSULTANTS CORP.**

DEFENDANTS

ORDER

This cause comes before the court on the Defendant Coldwell Banker Real Estate Corporation's motion [43] to dismiss plaintiffs' RICO claims and the plaintiffs' motion [67] for *correspondae interruptus*.

The defendant's motion to dismiss argues that the RICO claims in plaintiff's complaint should be dismissed for failure to comply with relevant Fifth Circuit precedent relating to the particularity of pleadings in statutory fraud actions. This court notes that Judge Davidson and Judge Pepper have each found that complaints in other Coldwell Banker cases virtually identical to this one sufficiently stated RICO claims for the purposes of a Rule 12 motion to dismiss. *See, e.g. Johnson v. Coldwell Real Estate Corp.*, 2006 WL 2403539 (N.D. Miss. 2006) (concluding that "the plaintiffs have met their pleading burden placed upon them by Rule 9(b) regarding their RICO claims"). While this court is not bound by these decisions of other district judges, it does find their rulings to be persuasive, and the court therefore agrees with plaintiff that the complaint

in this case sufficiently states RICO claims to survive a Rule 12 motion to dismiss.

On October 6, 2006, the plaintiffs filed in all cases a motion entitled “motion for *correspondae interruptus*.” The court denies the motion insofar as this court is not aware of correspondae with this chambers that needs interruption.

It is therefore ordered that Defendant Coldwell Banker Real Estate Corporation’s motion [43] to dismiss and the plaintiffs’ motion [67] for correspondae interruptus are DENIED.

This the 28th day of November, 2006.

/s/ Michael P. Mills
UNITED STATES DISTRICT JUDGE